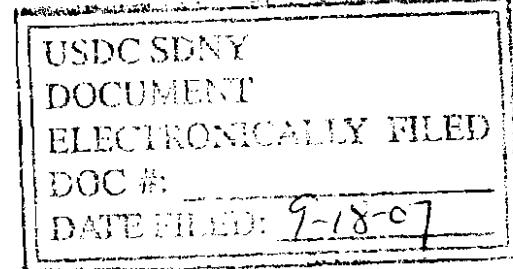


Kleinberg

Norman C. Kleinberg  
Theodore V. H. Mayer  
William J. Beausoleil  
**HUGHES HUBBARD & REED LLP**  
One Battery Park Plaza  
New York, New York 10004-1482  
(212) 837-6000

Paul F. Strain  
M. King Hill, III  
David J. Heubeck  
**VENABLE LLP**  
Two Hopkins Plaza, Suite 1800  
Baltimore, Maryland 21201  
(410) 244-7400



*Attorneys for Defendant Merck & Co., Inc.*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
IN RE: :  
Fosamax Products Liability Litigation : 1:06-md-1789 (JFK)  
-----X  
*This Document Relates to:* :  
David E. Tundel :  
v. Merck & Co., Inc. :  
Case No: 1:07-cv-6396-JFK :  
-----X

**STIPULATION AND ORDER EXTENDING TIME TO RESPOND TO THE  
MOTION OF MERCK & CO., INC. TO DISMISS  
PURSUANT TO FED. R. CIV. P. 41(a)(1)**

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff David E. Tundel and Defendant Merck & Co., Inc., through their respective undersigned counsel that Plaintiff's time to respond to Defendant's Motion to Dismiss Pursuant to Fed. R. Civ. P. 41(a)(1) will be extended up to and including September 27, 2007.

Dated: September 17<sup>th</sup>, 2007

LEVIN PAPANTONIO THOMAS  
MITCHELL ECHSNER & PROCTOR PA

By

Timothy M. O'Brien  
316 South Baylen Street, Suite 600  
Pensacola, Florida 32591  
(850) 435-7084

*Attorneys for Plaintiff*

HUGHES HUBBARD & REED LLP

By:

William J. Beausoleil  
One Battery Park Plaza  
New York, New York 10004  
(212) 837-6000

*Attorneys for Defendant Merck & Co, Inc.*

SO ORDERED:

Hon. John F. Keenan

9/18/07